

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA	:	
	:	
	:	
v.	:	CRIMINAL ACTION
	:	No. 17-208-5
RHASUL LUCAS	:	
	:	

McHUGH, J.

January 27, 2021

MEMORANDUM

These are motions for compassionate release under 18 U.S.C. § 3582. Petitioner Rhasul Lucas pleaded guilty to conspiracy to distribute heroin and crack cocaine base, as well as distribution, including distribution within a protected zone. With an offense level of 31 and a criminal history Category of II, he faced a guideline range of 121 to 151 months.

The parties recommended, and the Court accepted, a sentence that reflected a substantial downward variance – 83 months. Mr. Lucas has served less than half of that sentence. He now seeks early release because of the COVID pandemic principally based upon his suffering from asthma, and conditions at FCI-Fort Dix, where he lives in a dormitory setting.

Having reviewed the record, the motion will be denied.

The statute requires “extraordinary and compelling reasons” in order to grant release. §3582 (c)(1)(A) (i). I cannot say that Mr. Lucas’s medical condition is one that rises to that level. He is 32 years of age, and generally in good health. His motion asserts the existence of “multiple

lung and respiratory issues.” His medical records present a far less dire picture. Mr. Lucas suffers from a number of sinus related issues, and a history of substance abuse, but the only condition of potential relevance is asthma.

The Centers for Disease Control (CDC) publishes a list of high-risk favors for COIVD-19, and asthma is not among them.¹ Based on the available scientific evidence, according to the CDC, the most that can be said is that asthma “may” pose an increased risk.² In addition, Mr. Lucas has been provided with several inhalers and medications to address his asthma symptoms. Admittedly, he required a brief asthma-related hospitalization in 2018 but has not demonstrated lung damage or pulmonary dysfunction that might support a finding of a particularized risk, or any interference with his ability to function. The most one can conclude is that Mr. Lucas might have a marginally increased risk from COVID. Having reviewed multiple decisions from many district judges, Mr. Lucas’ case falls well outside the matrix where release was granted.

Although Mr. Lucas’ fears about the pandemic are understandable, the Court of Appeals had made clear that “the mere existence of COVID-19 in society and the possibility that it may spread to a particular prison alone cannot independently justify compassionate release, especially considering BOP’s statutory role, and its extensive and professional efforts to curtail the virus’s spread.” *United States v. Raia*, 954 F.3d 594, 597 (3d Cir. 2020). This Court is aware of the fluctuating situation at Fort Dix, and that the first death of a prisoner there was recently reported. But it appears that the deceased resident suffered from factors specifically recognized by the CDC as creating a high degree of risk, making his situation profoundly different. And I have

¹ <https://www.cdc.gov/coronavirus/2020-ncov/need-extra-precautions/people-with-medical-conditions.html>

²<https://www.cdc.gov/coronavirus/2021-ncov/need-extra-precautions/asthma.html>

previously detailed the comprehensive steps being taken by the Bureau of Prisons to combat COVID. *United States v. Robinson*, 466 F. Supp. 3d 524 (E.D. Pa. 2020).

An analysis of the factors set forth in 18 U.S.C. §3553(a) also weigh against release. Mr. Lucas' offenses are serious, and he has served less than half of his sentence. He has three prior drug-related convictions, and a history of irresponsible conduct which includes driving under the influence, fleeing police and striking a cyclist in the process. Also, Mr. Lucas has not shown significant commitment to combatting substance abuse, as he was non-compliant with therapy while on pretrial release awaiting sentencing.

For these reasons, the motion will be denied.

/s/ Gerald Austin McHugh
United States District Judge